

BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Matter of:

TUSTIN UNIFIED SCHOOL DISTRICT,

v.

PARENTS ON BEHALF OF STUDENT.

OAH CASE NOS. 2012110390 and
2012120818

ORDER GRANTING MOTION TO
CONSOLIDATE AND CONTINUING
DATES

On November 19, 2012, the Tustin Unified School District (District), through counsel, filed with the Office of Administrative Hearings (OAH) a Complaint for Due Process Hearing that named Student. OAH assigned this matter case number 2012110390. Currently pending in this First District Case is a prehearing conference set for January 7, 2013, and a due process hearing set for January 14, 2013.

On December 21, 2012, the District filed with OAH a second Complaint for Due Process Hearing that named Student. OAH assigned this matter case number 2012120818. Currently pending in this Second District Case is a mediation set for January 8, 2013, a prehearing conference set for January 14, 2013, and a due process hearing set for January 22, 2013.

Also on December 21, 2012, the District filed with OAH a motion to consolidate the First and Second District Cases. Counsel for Student has not filed with OAH a response to this motion.

Although no statute or regulation specifically provides a standard to be applied in deciding a motion to consolidate special education cases, OAH will generally consolidate matters that involve: a common question of law and/or fact; the same parties; and when consolidation of the matters furthers the interests of judicial economy by saving time or preventing inconsistent rulings. (See Gov. Code, § 11507.3, subd. (a) [administrative proceedings may be consolidated if they involve a common question of law or fact]; Code of Civ. Proc., § 1048, subd. (a) [same applies to civil cases].)

Here, the First District Case and Second District Case involve common questions of law or fact, and consolidation will further the interests of judicial economy. Accordingly, consolidation is granted.

A due process hearing must be held, and a decision rendered, within 45 days of receipt of the complaint, unless a continuance is granted for good cause. (Ed. Code, §§ 56502, subd. (f) & 56505, subd. (f)(1)(C)(3).)

Here, OAH must order a short continuance of the mediation and hearing dates in the consolidated cases, to accommodate the OAH Calendar and training requirements.

ORDER

1. The motion to consolidate the First District Case and the Second District Case is granted.
2. All dates previously set in OAH case number 2012110390 (First District Case) and OAH case number 2012120818 (Second District Case) are vacated.
3. The mediation and hearing dates in the consolidated matters are continued as followed. OAH shall issue a Scheduling Order that sets a mediation for February 7, 2013, starting at 9:30 a.m.; a prehearing conference on February 20, 2013, starting at 10:00 a.m.; and a due process hearing on February 26, 27 and 28, 2013.
4. The 45-day timeline for issuance of the decision in the consolidated cases shall be based on the date of the filing of the complaint in OAH case number 2012120818 (Second District Case).

Dated: December 28, 2012

/s/

TIMOTHY L. NEWLOVE
Presiding Administrative Law Judge
Office of Administrative Hearings